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EXAMINER SCHWADRON, R	
ART UNIT 1816	PAPER NUMBER 13

DATE MAILED: 02/03/98

Below is a communication from the EXAMINER in charge of this application

COMMISSIONER OF PATENTS AND TRADEMARKS

ADVISORY ACTION

☐ THE PERIOD FOR RESPONSE:

- a) ☐ is extended to run _____ or continues to run _____ from the date of the final rejection
- b) ☐ expires three months from the date of the final rejection or as of the mailing date of this Advisory Action, whichever is later. In no event however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

☒ Appellant's Brief is due in accordance with 37 CFR 1.192(a).

☒ Applicant's response to the final rejection, filed 1/5/98 has been considered with the following effect, but it is not deemed to place the application in condition for allowance:

1. ☒ The proposed amendments to the claim and/or specification will not be entered and the final rejection stands because:
- a. ☒ There is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented.
 - b. ☒ They raise new issues that would require further consideration and/or search. (See Note).
 - c. ☒ They raise the issue of new matter. (See Note).
 - d. ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
 - e. ☐ They present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: see enclosed note

2. ☐ Newly proposed or amended claims _____ would be allowed if submitted in a separately filed amendment cancelling the non-allowable claims.

3. ☒ Upon the filing an appeal, the proposed amendment ☐ will be entered ☒ will not be entered and the status of the claims will be as follows:

Claims allowed: NONE
Claims objected to: N/A
Claims rejected: 1-13

However,

☐ Applicant's response has overcome the following rejection(s): _____

4. ☒ The affidavit, exhibit or request for reconsideration has been considered but does not overcome the rejection because The rejections elaborated in the previous office action as they apply to the claims currently under consideration remain for the reasons elaborated in the previous Office Action.
5. ☐ The affidavit or exhibit will not be considered because applicant has not shown good and sufficient reasons why it was not earlier presented.

☐ The proposed drawing correction ☐ has ☐ has not been approved by the examiner.

☒ Other see enclosed note

R. Schwadron 2/2/98

RONALD B. SCHWADRON
PRIMARY EXAMINER
GROUP 1800

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6. Proposed claim 1 raises the issue of new matter. There is no support in the specification as originally filed for the recitation of "or fragment thereof" in proposed claim 1. The proposed claims raise issues that would require further consideration and search. The proposed claims recite new limitations that were previously absent from the claims and which would require new consideration and search. Proposed claim 1 recites that the moiety specific for a surface protein is not an antibody fragment thereof. This limitation was not previously recited in the claims and would require a new search of the prior art and new potential rejections over the prior art. Proposed claim 2 recites limitations that were not previously recited in the claims and would require a new search of the prior art and new potential rejections over the prior art. Proposed claim 2 encompasses antigens to which sensitization has occurred at the T cell level, while claim 2 was previously restricted to antigens to which there were preexisting antibodies. Proposed claim 3 differs in scope from the invention previously recited in claim 3 and would require a new search of the prior art and new potential rejections over the prior art.

7. Papers related to this application may be submitted to Group 180 by facsimile transmission. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). Papers should be faxed to Group 180 at (703) 305-3014.

8. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Dr. Ron Schwadron whose telephone number is (703) 308-4680. The examiner can normally be reached Tuesday through Friday from 8:30 to 6:00. The examiner can also be reached on alternative Mondays. A message may be left on the examiners voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, Ms Christina Chan can be reached on (703) 308-3973. Any inquiry of a general nature or relating to the status of this application should be directed to the Group 180 receptionist whose telephone number is (703) 308-0196.

Serial No. 08/630383

Art Unit 1816

RONALD B. SCHWADRON
PRIMARY EXAMINER
GROUP 1800



Ron Schwadron, Ph.D.

Primary Examiner

Art Unit 1816

February 2, 1998